

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

GINNY FONG, M.D.

**Physician's and Surgeon's
Certificate No. G 53687**

Respondent

File No. 800-2014-009942

DECISION AND ORDER

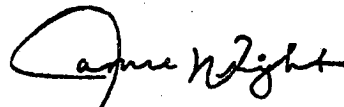
**The attached Stipulated Settlement and Disciplinary Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on September 28, 2017.

IT IS SO ORDERED August 29, 2017.

MEDICAL BOARD OF CALIFORNIA

By:



**Jamie Wright, J.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
4 State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5723
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 800-2014-009942

11 **GINNY FONG, M.D.**
12 **P.O. Box 686**
13 **Menlo Park, CA 94026**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Physician's and surgeon's certificate No.**
G53687

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
21 Board of California ("Board"). She brought this action solely in her official capacity and is
22 represented in this matter by Xavier Becerra, Attorney General of the State of California, by Greg
23 W. Chambers, Deputy Attorney General.

24 2. Respondent Ginny Fong, M.D. ("Respondent") is represented in this proceeding by
25 attorney David A. Depolo, Esq., whose address is: 201 North Civic Drive, Ste. 239
26 Walnut Creek, CA 94596.

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10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.

11. Respondent agrees that her Physician's and Surgeon's Certificate No. G53687 is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (“PDF”) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent Ginny Fong's Physician's and Surgeon's Certificate No. G53687, shall be and hereby is public reprimanded pursuant to California

1 Business and Professions Code section 2227, subdivision (a)(4). This public reprimand is issued
2 in connection with Respondent's diagnosis and patient care in OB/GYN cases, as set forth in
3 Accusation No. 800-2014-009942.

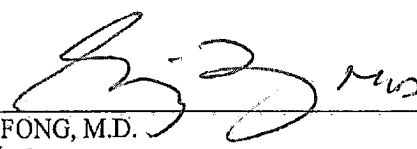
4 **B. EDUCATION COURSES**

5 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall
6 submit to the Board or its designee for its prior approval educational program(s) or course(s)
7 which shall not be less than fifteen (15) hours. The educational program(s) or course(s) **shall be**
8 **in the area of diagnosis and patient care in OB/GYN cases.** The educational program(s) or
9 course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical
10 Education ("CME") requirements for renewal of licensure. Following the completion of each
11 course, the Board or its designee may administer an examination to test Respondent's knowledge
12 of the course. Respondent shall provide proof of attendance for these additional fifteen (15)
13 hours of CME in satisfaction of this condition. Failure to complete the course within one-hundred
14 twenty (120) days of the effective date of this Decision shall constitute unprofessional conduct
15 and grounds for further disciplinary action.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
18 discussed it with my attorney, David A. Depolo, Esq. I understand the stipulation and the effect it
19 will have on my Physician's and surgeon's certificate. I enter into this Stipulated Settlement and
20 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
21 Decision and Order of the Medical Board of California.

22
23 DATED: 8/24/2017


GINNY FONG, M.D.
Respondent

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1 I have read and fully discussed with Respondent Ginny Fong, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: 6/3/17


5 DAVID A. DEPOLO, ESQ.
6 Attorney for Respondent

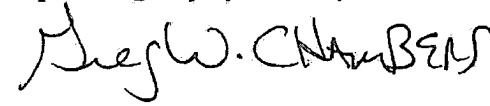
7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Medical Board of California.

10
11 Dated: JUNE 7, 2017

Respectfully submitted,

12 XAVIER BECERRA
13 Attorney General of California
14 JANE ZACK SIMON
15 Supervising Deputy Attorney General


16 GREG W. CHAMBERS
17 Deputy Attorney General
18 Attorneys for Complainant

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21 Stipulation.rtf
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Exhibit A

Accusation No. 800-2014-009942

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2014-009942

13 **Ginny Fong, M.D.**
14 **P.O. Box 686**
15 **Menlo Park, CA 94026**

A C C U S A T I O N

16 **Physician's and Surgeon's certificate**
17 **No. G53687,**

Respondent.

18 Complainant alleges:

PARTIES

19 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs ("Board").

22 2. On or about October 1, 1984, the Medical Board issued Physician's and Surgeon's
23 certificate Number G53687 to Ginny Fong, M.D. ("Respondent"). The Physician's and Surgeon's
24 certificate was in full force and effect at all times relevant to the charges brought herein and will
25 expire on October 31, 2017, unless renewed.

JURISDICTION

26 3. This Accusation is brought before the Board, under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.
28

1 4. Section 2227 of the Code provides that a licensee who is found guilty under the
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
3 one year, placed on probation and required to pay the costs of probation monitoring, or such other
4 action taken in relation to discipline as the Board deems proper.

5 5. Section 2234 of the Code, states:

6 “The board shall take action against any licensee who is charged with unprofessional
7 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
8 limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
10 violation of, or conspiring to violate any provision of this chapter.

11 “(b) Gross negligence.

12 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
13 omissions. An initial negligent act or omission followed by a separate and distinct departure from
14 the applicable standard of care shall constitute repeated negligent acts.

15 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
16 for that negligent diagnosis of the patient shall constitute a single negligent act.

17 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
18 constitutes the negligent act described in paragraph (1), including, but not limited to, a
19 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
20 applicable standard of care, each departure constitutes a separate and distinct breach of the
21 standard of care.

22 “(d) Incompetence.

23 “(e) The commission of any act involving dishonesty or corruption which is substantially
24 related to the qualifications, functions, or duties of a physician and surgeon.

25 “(f) Any action or conduct which would have warranted the denial of a certificate.

26 “(g) The practice of medicine from this state into another state or country without meeting
27 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
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1 apply to this subdivision. This subdivision shall become operative upon the implementation of the
2 proposed registration program described in Section 2052.5.

3 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
4 participate in an interview by the board. This subdivision shall only apply to a certificate holder
5 who is the subject of an investigation by the board.”

6 **FIRST CAUSE FOR DISCIPLINE**
7 **(Unprofessional Conduct – Gross Negligence, Negligence, and/or Incompetence/Lack of**
8 **Knowledge Related to the Care of Patient A)**

8 6. Respondent Ginny Fong, M.D. is subject to disciplinary action under section 2234
9 [unprofessional conduct]; and/or 2234(b) [gross negligence]; 2234(c) [repeated negligent acts];
10 and/or 2234(d) [incompetence/lack of knowledge] based on her care and treatment of Patient A.

11 The circumstances are as follows:

12 7. On or about April 5, 2013, Patient A, approximately 80 years of age, presented to
13 Respondent with a complaint of pink drainage with urination. Patient A had a prior cystoscopy
14 and a CT through the urology department, which was negative for hematuria.

15 8. Respondent conducted an examination of Patient A and noted: (1) no blood in the
16 vagina; and (2) that the vaginal epithelium was atrophic.

17 9. Respondent did not order a pelvic ultrasound of Patient A; Respondent failed to
18 evaluate any postmenopausal bleeding with either an endometrial biopsy or an ultrasound of the
19 uterus; and Respondent failed to order or conduct any assessment to exclude malignancy.

20 10. On or about February 21, 2014, Patient A was seen by a urologist for continued
21 hematuria. Cystoscopy was performed and revealed no bleeding from the bladder or kidneys.

22 11. On or about February 25, 2014, Patient A was seen by a gynecologist who ordered a
23 pelvic ultrasound that ultimately showed an intrauterine vascular mass.

24 12. On or about March 3, 2014, an endometrial biopsy was performed on Patient A by a
25 different provider, which showed serious adenocarcinoma.

26 13. Respondent's failure to evaluate any postmenopausal bleeding with either an
27 endometrial biopsy or an ultrasound of the uterus; and failure to order or conduct any assessment
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1 to exclude malignancy constitutes gross negligence, and/or negligence, and/or incompetence/lack
2 of knowledge.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Gross Negligence, Negligence, and/or Incompetence/Lack of
Knowledge Related to the Care of Patient B)**

5 14. Respondent Ginny Fong, M.D. is subject to disciplinary action under section 2234
6 [unprofessional conduct]; and/or 2234(b) [gross negligence]; 2234(c) [repeated negligent acts];
7 and/or 2234(d) [incompetence/lack of knowledge] based on her care and treatment of Patient B.

8 The circumstances are as follows:

9 15. On or about December 31, 2013, Patient B, approximately 27 years of age, had a pap
10 smear that showed Atypical Squamous Cells of Undetermined Significance (“ASCUS”), with a
11 positive showing for Human Papilloma Virus Infection (“HPV”).

12 16. On or about January 30, 2014, Patient B presented to Respondent for colposcopy.
13 Biopsies confirmed Cervical Intraepithelial Neoplasia (“CIN”) 2 at two biopsy sites, and CIN 1 at
14 a single biopsy site with an insufficient endocervical curettage (“ECC”).

15 17. On or about February 10, 2014, Patient B, again presented to Respondent for a follow
16 up examination. Respondent diagnosed Patient B with Moderate Cervical Dysplasia, CIN 2 and
17 advised Patient B to follow up in one (1) year with a PAP/HPV examination.

18 18. On or about February 18, 2014, after speaking with a colleague, Respondent
19 telephoned Patient B and advised Patient B to return in six (6) months for a examination of the
20 abnormal PAP.

21 19. Respondent failed to follow up with Patient B sooner than six (6) to twelve (12)
22 months, and in light of the inadequate ECC failed to proceed with either a diagnostic excisional
23 procedure or an excision/ablation procedure to treat the high grade dysplasia known to
24 Respondent.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Medical Board of California issue a decision:
28

- 1 1. Revoking or suspending Physician's and Surgeon's certificate Number G53687, issued
- 2 to Ginny Fong, M.D.;
- 3 2. Revoking, suspending or denying approval of Ginny Fong, M.D.'s authority to
- 4 supervise physician assistants, pursuant to section 3527 of the Code;
- 5 3. Ordering Ginny Fong, M.D., if placed on probation, to pay the Board the costs of
- 6 probation monitoring; and
- 7 4. Taking such other and further action as deemed necessary and proper.

8

9 DATED: November 23, 2015


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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